

**SEPTEMBER 13, 2016 CITY OF GUNNISON COUNCIL
REGULAR SESSION MEETING MINUTES**

7:00 P.M.

The City Council Regular Session meeting was called to order at 7:00 P.M., by Mayor Hagan with Councilors Sovick, Drexel, Morrison and Schwartz present along with City Attorney Fogo, City Manager Forrest, City Clerk Davidson, Acting City Manager/Parks & Recreation Director Ampietro, Finance Director Cowan, Community Development Director Westbay, Water Superintendent Doherty, WSCU Liaison Howard, several citizens and the press. A Council quorum was present.

PUBLIC HEARING

7:00 P.M.

Receive Input on Transfer of Retail Marijuana Store License Application from East River Management LLC dba GrowHouse Gunnison to Best Buds Inc., dba Best buds, 811 N. Main Street, Gunnison.

Mayor Hagan opened the Public Hearing and stated the time is now 7:01 P.M. on Tuesday, September 13, 2016, in the City Council Chambers of City Hall, 201 W. Virginia Avenue in Gunnison, Colorado and the purpose of this Public Hearing is to receive public input on the transfer of the Retail Marijuana Store License Application from East River Management dba GrowHouse Gunnison to Bet Buds, Inc. dba Best Buds, 811 N Main Street in Gunnison, Colorado.

Present at the Public Hearing are myself, Mayor Richard Hagan, City Councilors Andy Sovick, Robert Drexel, Leia Morrison and Matt Schwartz, City Attorney Kathy Fogo, City Manager Russ Forrest, City Clerk Gail Davidson, Finance Director Ben Cowan, Community Development Director Steve Westbay, Parks & Recreation Director Dam Ampietro, WSCU Liaison Jodie Howard, the applicant and several citizens. Mayor Hagan asked the applicant to identify himself. Mr. Kenneth Chick did so.

Mayor Hagan called for proof of publication. City Clerk Davidson stated a copy of the published notice was included in their packets and the affidavit of publication will be included in the City's official files.

Mayor Hagan called for Staff comments and recommendations. City Clerk Davidson stated City Council approved and adopted Marijuana Establishment rules and regulations. These are found in the Gunnison Municipal Code (GMC) and the City of Gunnison *Land Development Code (LDC)*. To transfer a Marijuana Establishment license in the City, approval from both the State of Colorado and the City of Gunnison must be obtained. The City application and licensing regulations are outlined in GMC Section 8.40. Best Buds, Inc. has completed and submitted the required State Marijuana Enforcement Division (MED) and the City of Gunnison Transfer of Marijuana Establishment License Application forms for a retail marijuana store that is located as 811 N. Main Street, in Gunnison. 100% Principal in the corporation is Kenneth Chick.

The notarized property owner's consent form for the submission of the Transfer of Ownership application for the Marijuana Establishment on the premises was included in the application. As determined in the original licensing procedure, the proposed store location is within the allowed zoning district for a retail marijuana store establishment within the City. The needs and wants of the neighborhood being met by the location of the retail store were determined in the original licensing procedure. Best Buds Inc. has paid the City-required application fees.

The State MED submitted their completed forms back to the City. Once the State Application forms were received, they were forwarded onto the Police, Finance, City Clerk, Public Works, and Community Development Departments, as well as to the City Attorney for review. A copy of the City of Gunnison Departmental Approvals form is included in the Public Hearing information packet. The State MED has conditionally approved the transfer of license. A copy of that license was included in the public hearing packet. Best Buds Inc. has paid the City-required \$2,000 application fee

A copy of the City of Gunnison Departmental Approvals form is included in the Public Hearing information packet. The results of that review include:

- Clerk's Department: the required complete application was filed including the property owner consent form. All City-required fees have been paid. The needs and wants of allowing a retail marijuana establishment at this location was determined in the original license public hearing and approval process.

- City Attorney: had a question regarding the ownership of the Business to be. The applicant will explain the business ownership during his testimony and a statement of explanation is also included in the application documents.
- The Finance Department has issued a City Sales Tax License and has provided sales tax remittance information to the applicant.
- The Police Department has completed local background check and investigation on the applicant - the LLC Principal.
- The Community Development Department has completed their review of the application for compliance with the provisions of the City of Gunnison *Land Development Code* regarding allowed location, signage, control of marijuana-related odors, hours of operation, and City-adopted building standards. The CD Department has issued their report with the following conditions:
 - Marijuana establishment shall comply with all provisions, standards and regulations of the *Land Development Code* and all relevant building, mechanical and fire codes adopted by the City.
 - The facility is partitioned with the Retail Establishment comprising approximately 1,422 square feet (sf) and the remaining building floorplan (\pm 3,152 sf), is identified as "storage". Any future change in use for the designated storage floor area shall be subject to review and approval by the Community Development Director.
 - A minimum of 4 exterior parking spaces shall be dedicated to accommodate parking demand associated with the accessory "storage" use as depicted on the floor plans.
 - The parking facilities will include an 8' perimeter landscaping island pursuant to Section 4.6.G.2 of the City of Gunnison *Land Development Code* and as depicted on the site plan submittal on file that was approved on November 3, 2015. Mr. Chick has indicated he has contracted for both the parking spaces striping and the landscaping and those projects are currently in process.
 - Building occupancy for the licensed retail marijuana establishment shall be subject to final inspection and approval by the Building Official, Fire Marshal and Director of Community Development.

City Council set the Public Hearing for this evening, 7:00 P.M., Tuesday, September 13, 2016, the premises was posted with the required Public Hearing notice poster, and the public hearing notice was published as required in the Gunnison Country Times Newspaper.

Therefore, based on the review and investigations for the Transfer of Ownership of the Retail Marijuana Store Establishment application for compliance with City regulations, City Staff recommends approval of the Transfer of Ownership for the Retail Marijuana Store located at 811 N. Main Street in Gunnison to Best buds Inc., with the stated conditions.

Mayor Hagan called for the applicant's testimony. Mr. Kenneth Chick came forward and addressed Council. Mr. Chick stated the owners of the existing GrowHouse store work out of the front range area and it is hard to manage the store with all of the required traveling, thus their desire to transfer their marijuana establishment license. Mr. Chick said he has been wanting to own a licensed retail marijuana store. He contacted the State and that license was issued a week ago. The store will be closed for about a week while they make some minor changes and complete the landscaping and parking lot. Mr. Chick explained it is his intent in the future to add Travis Batmen as his business partner. Mr. Bateman is currently providing a loan for Best Buds. In order to hold a license in Colorado a person has to have a two year state residency. Travis doesn't have that at this time. However, in October, the State is going to reduce the residency to 1 year and Travis will then be eligible to hold a license and Best Buds will file a corporate structure change with the State. At this time, Mr. Chick stated he owns 100% of the company stock. Council thanked Mr. Chick for his testimony.

Mayor Hagan called for any comments in favor of the application. There were no comments. Mayor Hagan then called for any comments in opposition of the application. There were no comments. The Mayor asked if any letters, emails or other comments from the public were received regarding the application. City Clerk Davidson stated that no other comments were received. Mayor Hagan called for any other comments on the application and hearing none, closed the Public Hearing at 7:13 P.M.

Consideration of Minutes:

August 23, 2016, Regular Session Meeting.

Councilor Drexel moved and Councilor Morrison seconded the motion to approve the Regular Session meeting minutes of August 23, 2016, as presented.

Roll call vote, yes: Sovick, Drexel, Hagan, Morrison, Schwartz. So carried.

Roll call vote, no: None.

Pre-Scheduled Citizens:

Sources of Strength Program Report – GHS Students and GCSAPP Representatives.

Kari Commerford and Jordan Johnson, with the Gunnison County Substance Abuse Prevention Program (GCSAPP) and 4 High School students who participated in this summer's Sources of Strength (SOS) Program came forward and addressed Council. Ms. Commerford stated the summer leadership program was very valuable not only for the students but for the teachers as well. Eight students participated in the program and those students were nominated by GHS teachers and other students to be chosen for the training. There was a good deal of 1 to 1 participation between the students and the leaders. The SOS Program focuses on leadership training and mentoring skills for suicide and bullying prevention in the schools. There will be a follow-up meeting for the incoming Freshmen Class in the next few weeks. The programs goal is to create a subset of student leaders. Ms. Jordan stated that the SOS program is now written into all of the RE1J Schools curriculum. They will be bringing a component of the program to the middle schools this spring. The students stated they appreciate working with the City and getting the funds for this summer's training program. Council wished the students success in the upcoming year.

Old Business: None.

New Business:

Action on Transfer of Ownership Retail MJ Store from East River Management LLC dba GrowHouse Gunnison to Best Buds Inc., 811 N Main Street, Gunnison, CO.

Councilor Schwartz moved and Councilor Morrison seconded the motion that the Transfer of Retail Marijuana Store License located at 8111 N Main Street, Gunnison, Colorado, 81230, to Best Buds Inc., dba Best Buds, be approved based on the following findings and with the following conditions:

FINDINGS:

- (1) There has not been a denial of an application at the same location, on the grounds that the reasonable requirements of the neighborhood was satisfied by the existing establishments in the original licensing process.
- (2) It appears from the evidence submitted with the application that the applicant is entitled to possession of the premises where the transferred license is proposed to be exercised.
- (3) Selling Retail Marijuana and Allowed Retail Marijuana-Associated Products, as proposed in the license, is not in violation of the zoning, fire, building, technical, and other applicable codes of the City of Gunnison or the laws of the State of Colorado.
- (4) The building where the application proposes to sell Retail Marijuana and allowed marijuana-associated products does not appear to be within 1000 feet of any public, charter, or parochial school, daycare school, center or home, the principal campus of any college, university or seminary, or mental health facilities.
- (5) Within the City Limits where Retail Marijuana and Marijuana-associated products are proposed to be sold, there are the following existing licensed marijuana establishments:
 8 – Retail Marijuana Stores Licenses with 7 in active operation.
- 6) All fees necessary for the application have been paid.

CONDITIONS:

- (1) The Marijuana establishment shall comply with all provisions, standards and regulations of the *Land Development Code* and all relevant building, mechanical and fire codes adopted by the City.
- (2) The facility is partitioned with the Retail Establishment comprising approximately 1,422 square feet (sf) and the remaining building floorplan (\pm 3,152 sf), is identified as "storage". Any future change in use for the designated storage floor area shall be subject to review and approval by the Community Development Director.

- (3) A minimum of 4 exterior parking spaces shall be dedicated to accommodate parking demand associated with the accessory "storage" use as depicted on the floor plans.
- (4) The parking facilities will include an 8' perimeter landscaping island pursuant to Section 4.6.G.2 of the City of Gunnison *Land Development Code* and as depicted on the site plan submittal on file that was approved on November 3, 2015.
- (5) Building occupancy for the licensed retail marijuana establishment shall be subject to final inspection and approval by the Building Official, Fire Marshal and Director of Community Development.

Roll call vote, yes: Hagan, Morrison, Schwartz, Sovick. Motion carried.

Roll call vote, no: Drexel.

Action on Skate Park Lighting Contract. Parks & Recreation Director Ampietro informed Council he is still waiting on cost information from EC Electric for the motion sensors at the Skate Park. Director Ampietro indicated there is some room in the budget to purchase some sensors. A short discussion on types of motion sensors ensued.

Councilor Schwartz moved and Councilor Drexel seconded the motion to approve the Contract with EC Electric in the amount not to exceed \$80,000 for installation of lighting at the Skate Park and for the City Manager to sign said Contract once the motion sensor costs are included in the Contract.

Roll call vote, yes: Hagan, Morrison, Schwartz, Sovick, Drexel. So carried.

Roll call vote, no: None.

Action on IGA Between Gunnison Rising Metro Districts No's 1 through 7 and City of Gunnison. Community Development Director Westbay informed Council the Intergovernmental Agreement is essentially a synopsis of the Metropolitan Districts Service Plan. City Attorney Fogo stated that the City received the signed IGA from the Gunnison Rising Metropolitan Districts Nos. 1 through 7 and Council did not have an opportunity to review it before it was signed. There are four typographic/wording changes that need to be made. Those are as follows: in Section 19. It needs to state the annual report is to be submitted to the City Manager's office; Section 21 (c) needs to have the written mill levy amount match the numerical amount; in Section 21 (e) the annual report deadline of 2008 needs to be changed to 2017; and in Section 22, the written year of forty needs to match the numerical designation. She suggests the Council approve the IGA with the changes as stated.

Councilor Drexel moved and Councilor Schwartz seconded the motion to approve the Intergovernmental Agreement between the Gunnison Rising Metro Districts No's 1 through 7 and the City of Gunnison, with the four discussed changes to the IGA be made prior to the City signing the document.

Roll call vote, yes: Morrison, Schwartz, Sovick, Drexel, Hagan. So carried.

Roll call vote, no: None.

Action to Proceed with Water Meter Replacement. This item was discussed at last week's Council Work Session meeting. Water Superintendent Joe Doherty informed Council there was no change in the request since that meeting and he was present to answer any questions from Council. There were no questions.

Councilor Morrison moved and Councilor Schwartz seconded the motion to authorize the purchase and installation of water meters for the replacement project in an amount not to exceed \$92,325.00.

Roll call vote, yes: Schwartz, Sovick, Drexel, Hagan, Morrison. So carried.

Roll call vote, no: None.

Executive Session:

Pursuant to C.R.S. §24-6-402(4)(b): for the purpose of receiving legal advice from the City Attorney on specific legal questions, Re: Water Rights.

Councilor Schwartz moved and Councilor Drexel seconded the motion to go into Executive Session the purposes of which is for receiving legal advice from the City Attorney on specific legal questions, Re: Water Rights.

Roll call vote, yes: Sovick, Drexel, Hagan, Morrison, Schwartz. So carried.

Roll call vote, no: None.

Council went into Executive Session at 7:49 P.M.

Council returned to Regular Session at 7:59 P.M. Mayor Hagan stated, the time was now 7:59 P.M., and the Executive Session has been concluded. The participants for the Executive Session were himself, Mayor Richard Hagan, Mayor Pro Tem Robert Drexel, Councilors Andy Sovick, Leia Morrison, and Matt Schwartz, City Attorney Kathy Fogo, City Manager Russ Forrest, City Clerk Gail Davidson, and Community Development Director Steve Westbay. He then asked for the record, if any person who participated in the Executive Session believes that any substantial discussion of any matters not included in the motion to go into executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, he asked them to state the concerns for the record. No comments were made.

New Business (cont.)

Possible Council Action to Direct Staff on Water Court Case No. 16CW3009 – Mark Daily and Lynn Cudlip.

Councilor Schwartz moved and Councilor Morrison seconded the motion to direct the City's Water Special Counsel to seek a ruling from the Water Court by filing a short motion to re-refer Water Court Case No. 16CW3009 to the Water Judge to take the case off the Referee's docket and to file what is known as a "motion for determination of questions of water law" in the case. This motion would ask the Water Court Judge to rule that under a new 2016 water right, the applicants would not be entitled to take water from the canal when Senior Water Rights are in priority. The applicant's water rights would not be a senior right and they could not divert any water from the canal at times when there is a call on the river by senior rights.

Roll call vote, yes: Drexel, Hagan, Morrison, Schwartz, Sovick. So carried.

Roll call vote, no: None.

Resolutions and Ordinances:

Resolution No. 10, Series 2016; Re: Canceling Regular Session Meeting Scheduled for 7:00 P.M., September 27, 2016. Councilor Morrison introduced Resolution No. 1, Series 2016, and it was read by title only by the City Attorney.

Councilor Morrison moved and Councilor Sovick seconded the motion that Resolution No. 10, Series 2016, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, CANCELING THE REGULAR SESSION MEETING THAT WAS SCHEDULED FOR SEPTEMBER 27, 2016**, be introduced, passed and adopted this 13th day of September, 2016.

Roll call vote, yes: Hagan, Morrison, Schwartz, Sovick, Drexel. So carried.

Roll call vote, no: None.

Reports:

City Attorney Kathleen Fogo: no report.

City Manager Russ Forrest: reminded Council the Gunnison Emergency Services active shooter training will take place tomorrow and it will entail some street closures on Georgia Avenue north of the Blackstocks Building. Councilors can observe the training from a tent that will be erected in the parking lot east of the building. The Annual Chamber Event will take place Friday evening at the I-Bar Ranch and tickets cost \$40.00 each. The final One Valley Prosperity Project (OVPP) report is now available on-line and can be purchased for \$45 from the County. The grand opening of the Dog Park is tentatively scheduled for October 13th just after 5pm. It hasn't been decided if there will be a fun run with dogs and owners or a general walk on the trail from Escalante Terrace on campus, down the new trail to the dog park. The Council's Strategic Planning meetings have been set for Monday night, September 26th at 6pm in the Borick Business Building 2nd floor Boardroom and then all day, 8am to 4pm, on Tuesday, September 27th at the University Center Conference Room. He has done a contract with Managing Results, LLC to facilitate those meetings. He will have a refined schedule for the meetings next week.

Acting City Manager Parks & Recreation Director Dan Ampietro: no further report.

City Clerk Gail Davidson: nothing further to report.

Western State Colorado University Student Liaison Jodie Howard: informed Council that there are many sporting events taking place and Council and the community are encouraged to attend. She has been working with Chamber Director Eric Freson and it has been very interesting.

Non-Scheduled Citizens: None.

City Council Discussion, Meeting Reports, Items for Work Session:

Councilor Sovick: attended the Trails Commission meeting last night. That group is deferring some decisions until any new County Commissioners are seated in January. Councilor Sovick stated the Commission is also looking at getting information on all trails easements that currently exist so a trails overview can be compiled.

Councilor Morrison: reported she attended no meetings and has no report.

Councilor Drexel: reported a manufacturing business that expressed interest in our area has decided to locate in Montrose County. He attended the Hall of Fame Banquet and it was a lot of fun. Councilor Drexel then asked about the trash cans downtown. Director Ampietro responded that the Streets and Alleys crew had additional money put in their 2016 budget for additional collection of the downtown trash cans/receptacles on the weekends and after special events.

Mayor Hagan: reported he attended the all-employee meeting last Thursday as a guest and it was a good turnout.

Councilor Schwartz: reported he attended the RTA meeting. At that meeting they discussed the following: a new RTA staff position to work with Scott Truex and learn about the organization; the FPO had good business summer; airline flights had a 79.7% load factor this summer; one new CNG bus and one new diesel bus will be ordered; a GPS-based bus locator application is in the works; the CBMR contract with the TA will cover some overage costs; and the Air Alliance will no longer be funded so \$300,000 has been transferred to Air Command. Councilor Schwartz also attended the CML District Meeting in Montrose and he had good networking with other Western Slope municipalities. Those municipalities are very aware of the WSCU ICE House project.

Adjournment: Mayor Hagan called for any further discussion from Council, Staff or the public, and hearing none, adjourned the Regular Session meeting at 8:25 P.M.



Mayor



City Clerk